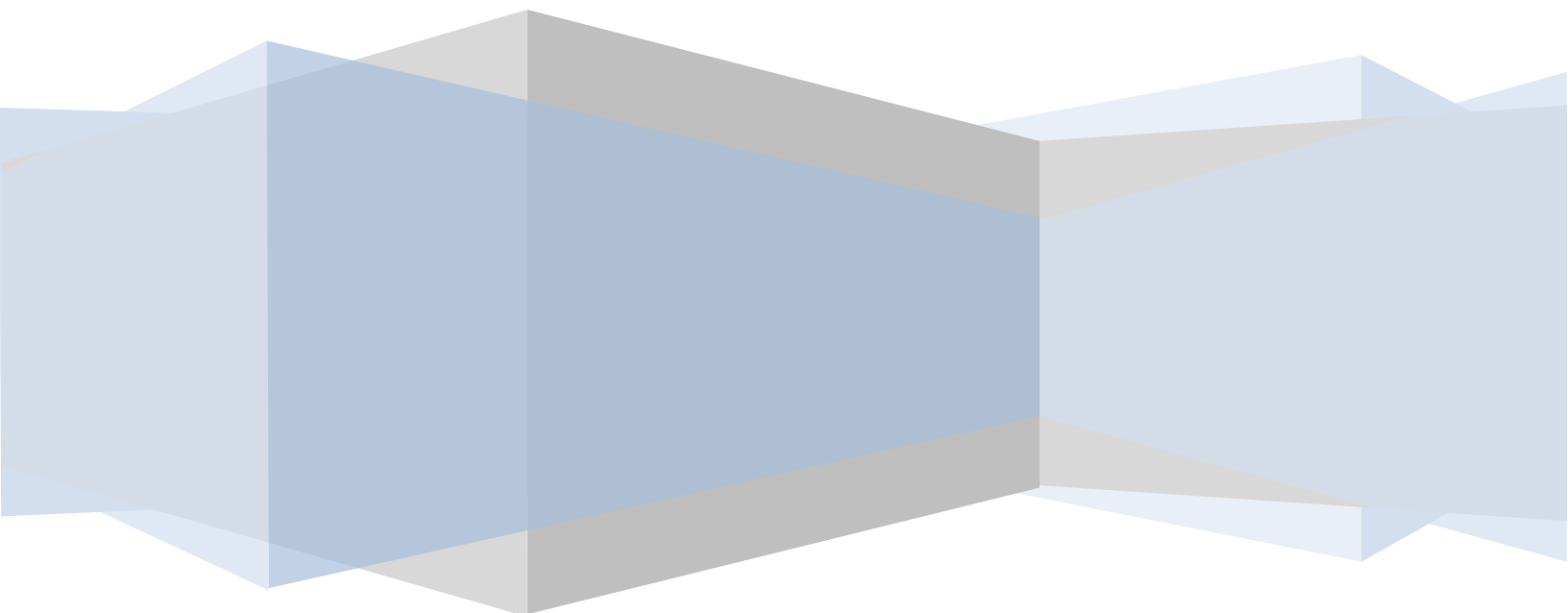




**City of Westminister  
Housing Division**

**Attachment A**

# **Approved First Time Homebuyer Program**



## **Introduction**

The purpose of the Agency's Home Ownership (Second Trust Deed Loan) Program is to address the need for affordable workforce housing by providing an opportunity to low and moderate income households to acquire their first home. The Program is funded by the Westminster Redevelopment Agency (the "Agency"). It provides "silent second" deferred trust deed mortgages to fund the difference between the market sales prices up to a maximum sale price and a mortgage amount which will provide housing costs that are affordable to low and moderate income households in the purchase of a residence. Qualifying homes must be single-family homes, condominiums or townhomes located within the City of Westminster.

The Agency loan program was developed to provide "gap" funding; it funds the difference between the maximum first loan a first time home buyer can obtain and the purchase price, less a down payment of a minimum of 3% of the purchase price and 50% of the non-reoccurring closing costs.

## **Basic Structure of Program**

- The maximum Agency loan for low to moderate income households is \$75,000.
- A Maximum Purchase Price will be set depending upon the median sales price when program is activated, currently \$362,790.
- Agency loans will only be provided to potential buyers having a primary lender qualifying ratio of not less than 25% nor greater than 35% of the borrower's gross monthly income. The housing ratio cannot exceed 33% and the debt ratio cannot exceed 45% of household income.
- The Agency must ensure that the monthly mortgage falls within the definition of an affordable housing cost to the buyer depending upon income category. This monthly not-to-exceed amount limits the size of the first mortgage and, when combined with the Agency loan and buyer's down payment, will result in a sales price that is affordable to the buyer's income category under California Redevelopment Law (CRL).
- In order to ensure that the unit remains affordable to an eligible low to moderate income household for a minimum of 45 years, affordability covenants will be recorded against the unit when the home purchase loan is funded. Resale restrictions will be designed to limit the amount of profit that can be retained by the homeowner when a covenant unit is sold and to provide equity sharing as required by the CRL. Home owners who participate in the Program and then wish to sell their unit will not be required to sell such units at the defined affordable cost to eligible buyers. The Agency will have first right of refusal to purchase the property.
- Applicants will be required to attend an Agency homebuyer seminar to qualify to receive the Agency loan. The purpose of the homebuyer seminar is to introduce potential Westminster homeowners to the basic steps of home buying, including how to

qualify for a home mortgage and requirements of the 45-year Agency silent second mortgage.

**Eligible households** – Home purchase loans will be available to low and moderate income households (primary 80%- 120%). The applicable income limits are provided in the attached income limit chart, and will be updated annually.

**First Mortgage-** Before applying for an Agency second trust deed loan, prospective buyers must receive preliminary loan approval from their first trust deed lender for a fixed rate 30 year mortgage loan. The loan amount must result in a principal and interest payment which when added to the monthly cost of property taxes and insurance, mortgage insurance or homeowners association fees (if applicable) and a reasonable utility allowance, results in a total monthly payment that is within the applicable housing cost allowance based on the number of bedrooms or family size whichever is applicable. (Refer to income limit chart definitions).

**Eligible properties-** Prospective home buyers may consider a single-family, town home, or condominium unit that is currently for sale in the City of Westminster. The property however must be a legally conforming single family residence in compliance with all zoning requirements. Legal but non-conforming properties are not eligible. Non-conforming properties and mobile homes are also ineligible. Properties with luxury items such as pools are not eligible. Existing homes, newly constructed homes and substantially refurbished homes are eligible.

**Existing Homes-** Homes for sale on the open market that have been previously owned.

**Unit Size-** All homes assisted with the Agency Home Ownership Program must comply with State Health & Safety Codes regarding overcrowding and shall be occupied by a household with a size that is proportionate to the number of bedrooms as required by state law. Additionally occupancies must be compatible with the Community Redevelopment Law with regard to number of persons per bedrooms.

**Newly Constructed Homes** – Homes which are under construction at least to the framing stage or are newly constructed and vacant. Evidence of construction is required as part of the original loan package. Homes where a lease purchase option was executed by the applicant at the time the unit was newly constructed are also eligible. In such cases, the applicant will be requested to provide a copy of the executed agreement as part of the loan package.

**Substantially rehabilitated units-** Homes where either the seller or buyer can demonstrate that the property has been upgraded by the addition of improvements which are equal to 25% of the property's "after rehab" value, including the value of the land. The improvements must be completed prior to submission of the application for the Agency loan, be documented, and have been made within the past year.

**Agency Loan Amounts-** The maximum loan amount for an Agency home purchase loan is \$75,000. The Agency loan is used to fund the “gap” between the maximum mortgage loan for which the buyer qualifies with the primary lender and the purchase price of the home, less the buyer’s down payment of a minimum of 3% of the purchase price along with available assets with an allowable 6 month reserve. The applicable maximum agency loan amounts are not to be considered a fixed amount. In determining the actual Agency loan amount, first deduct the down payment from the sales price and available liquid assets minus a reserve for 6 months, then the maximum mortgage loan which can be extended to the buyer by the primary lender. The remainder is the amount of the Agency loan up to the maximum amount.

**Maximum Purchase Price-** Subject to all other Program requirements, in particular that Participant meets the Affordable Housing Cost requirements for monthly housing cost (discussed next), the maximum purchase price for an eligible Property will be based on the median purchase price for single-family homes in the City of Westminster. This amount shall be subject to adjustment.

**Affordable Housing Cost-** California Redevelopment Law establishes the maximum allowable amount qualified Participants may pay for housing related expenses (including principal, interest, taxes, insurance, homeowner association dues, and a reasonable utility allowance) to qualify and participate in the Program. Affordable Housing Cost is defined in Health & Safety Code Section 50052.5.

## **Property Standards-**

### **1. Health and Safety Standards**

All properties proposed to be purchased using the Agency’s Home Ownership Loan Program shall meet basic health and safety standards are required by the Codes of the City of Westminster. Before the close of escrow, all homes may be inspected by a certified building inspector and shall be determined to meet the applicable Codes.

If a home does not meet basic health and safety standards, it must be brought into compliance by the seller, the buyer or a combination of both before the close of escrow. If it cannot or is not brought into compliance, no assistance will be provided.

### **2. Occupancy at Time of Purchase and Time of Occupancy by Borrower**

At the time of close of escrow, the property must be currently be occupied by the seller or be vacant for 90 days. If occupied by the seller, the house shall be vacated within three days of the close of escrow. The buyer must occupy the property within seven (7) days of the close of escrow. Property which the first time homebuyer intends or does use for rental purposes does not qualify for this program. The property must be occupied by the first time homebuyer and used as their primary residence for the length of the Agency’s loan.

**Affordability Covenants-** In order to ensure that the unit remains affordable to an eligible low or moderate income household for a minimum of 45 years, affordability covenants will be

recorded against the unit when the home purchase loan is funded which will include equity sharing and a first right of refusal by the Agency.

**Agency Loan Funds-** The Agency loan funds will be disbursed through escrow to borrowers who meet the eligibility requirements described in the Eligible Households Section, have obtained loan approval from their first trust deed lender, and have sufficient funds for their minimum 3% down payment and 50% of the non-reoccurring closing costs.

## Agency Loan Description

Monthly principal and interest payments are not required. The Agency loan will be structured as a “silent” second trust deed mortgage under the following restrictions:

- The principal and shared appreciation payments are deferred and shall be forgiven as long as the unit remains affordable to a low and moderate income household for a forty-five (45) year term, and remains their principal residence.
- The Agency retains first right to purchase the unit from the owner in an effort to retain the affordability covenants.
- The loan-to-value ratio shall not exceed 97% of the value of the unit to be purchased. For this purpose:
- The loan amount will be the combined total of the home buyer’s first trust deed and the Agency second trust deed.
- The value of the unit will be the purchase price plus applicable closing costs.

Prospective homebuyers must first receive preliminary loan approval from their first trust deed lender for a fixed rate 30 year mortgage loan before applying to receive an agency second trust deed.

Prospective home buyers must have sufficient funds for their 3% down payment and 50% of non-reoccurring closing costs. The use of gift funds for 2% of the down payment is allowed but must be evidenced by a gift letter.

A portion of the non-recurring closing costs may be funded as part of the agency loan if allowed by the primary lender. In such cases, the Agency’s loan-to-value ratio must be met. The closing cost assistance amount will be included in the second trust deed loan.

All applications for home buyer assistance must include proof of first trust deed lender’s specified loan amount. Funds will only be reserved for loan packages which are complete on receipt, details are contained in the submittal requirements section.

The agency will agree to subordinate to a refinancing of the first mortgage loan only to another FIXED RATE mortgage loan in order to reduce the interest rate on that mortgage and subsequent mortgage payments; the owner will NOT be allowed to remove equity or pay off

other debt with the proceedings of the refinancing. The original first mortgage amount may not be exceeded during the term of the Agency loan which is due upon the sale or transfer of ownership of property. The Agency's second trust deed loans will not subordinate to any subsequent deeds of trust that may be filed against the property.

#### **Refinancing/Repayment/Equity Sharing**

1. Refinancing- Refinancing of the First Trust Deed Loan will be permitted, based on the following restrictions:
  - a. No increase in the principal
  - b. First mortgage remains and continues fully amortizing
  - c. No cash/equity withdrawal
  - d. No variable interest rate
  - e. No negative amortization in connection with such proposed refinancing
  - f. No interest only payment structure
  - g. No subordination of the Agency Loan below second lien position.
2. The Agency Loan shall be repaid and due upon the following:
  - a. The Principal (and equity Sharing Payment) shall be due in full upon the earlier to occur of: (1) resale, reconveyance or refinancing (inclusive of the transfer/conveyance of the Property upon or in connection with the death of Participant through a trust, will or other estate planning or probate event); or, (2) default by Participant on the terms of the Agency Loan.
  - b. If the Agency Loan has not repaid by the 30<sup>th</sup> anniversary of the Recordation Date based on 2(a) above, then the Principal of the Agency Loan shall become fully amortized and fixed, level monthly payments shall commence and be due and payable on the first of each month with amortization based on fifteen years remaining on the Term of the Agency Loan.
  - c. If the First Trust Deed Loan is paid off by Participant sooner than the 30<sup>th</sup> anniversary of the Recordation Date, then after the First Trust Deed Loan is repaid commencing with the next following anniversary of the Recordation Date and continuing through to the end of the 45-year Term of the Agency Loan, the Principal shall become fully amortized and fixed, level payments shall commence and be due and payable on the first of each month with amortization based on years remaining between payoff of the First Trust Deed Loan and the end of the 45-year Term of the Agency Loan.
3. Equity Sharing – In addition to the principal amount disbursed under the Promissory Note for Participant's purchase of the Property, which shall be due and payable as described in the above paragraph, each Participant shall pay to the Agency an Equity Sharing Payment, if any, which amount is equivalent to a percentage share of the appreciation in the value of the Property based upon the proportionate share of the Agency Loan to the original purchase price for the Property.

The Equity Sharing Payment shall be due in full upon the following:

- a. The earlier to occur during the 45-year Term of the Agency Loan of either:
  - i. First resale, full or partial transfer of conveyance, or refinancing
  - ii. Default by Participant of the Agency Loan; and/or
- b. In the event the Participant owns and occupies the Property for the full 45-year Term of the Agency Loan, then the terms and conditions of the obligation to make the Equity Sharing Payment will be discharged and forgiven.

In summary, in the event Participant owns and occupies the Property for the full 45-year Term of the Agency Loan, then the terms and conditions of the Agency Loan will be discharged.

### **Eligible Households**

In order to use Housing Fund monies, the Agency must follow the income and affordable housing cost criteria set forth in California Redevelopment Law.

**Income Level**- The purchaser must qualify as a low and moderate income household as defined by the State of California. The purchaser must have a gross annual income that does not exceed 120% of the adjusted median income (AMI), based on the family size and established from time to time by the State Department of Housing and Community Development for the County of Orange. The attached chart presents the 2009 income limits for each family size based on the median income for Orange County and the maximum affordable housing cost allowance that will apply based on the income category, family size or number of bedrooms in the unit.

**A First-Time Homebuyer**- A First-Time Homebuyer is defined as a purchaser who has not owned a home during the three-year period immediately prior to the proposed purchase, or is a household that has owned a home within the last three years but qualifies as a “displaced homemaker” or a “single-parent” with minor children from whom the individual has custody or joint custody.

**General Eligibility**- To be eligible for an Agency Loan, a purchaser (or borrower):

- Must have sufficient income and a credit rating that will qualify them to receive a first trust deed loan in the appropriate amount from an approved lender bank;
- Have gross household income equal to or less than the 2009 income limits for their household size; and
- The transaction must take place at an affordable housing cost. Total housing costs include the first mortgage principal and interest, property taxes and insurance, mortgage insurance and HOA fee (if applicable) and a reasonable utility allowance. Monthly housing costs must be equal to or less than the amount allowed for the applicable bedroom or family size and the income category.

### **Minimum Assets**

The buyer shall have sufficient assets to provide a minimum down payment equal to at least 3% of the purchase price of the home plus and additional amount to cover at least 50% of the non-recurring closing costs along with available liquid assets with a reserve allowed of six months worth of payments.

### **Principal Residence**

The home purchased with the assistance from the Agency's Home Ownership Program must be occupied as the principal residence of the household receiving the assistance. Temporary subleases are not allowed. Co-Buyers, other than the owner-occupants will not be permitted. A covenant in the trust deed will require that the purchased property remain as the first-time buyer's principal residence for 45 years.

In the event the buyer rents or leases the home to other occupants, the buyer shall be in default of the Agency's Home Ownership Loan and the Agency may take such action as it deems appropriate in accordance with the laws of the State of California, including, but not limited to immediate repayment of the Agency's loan.

### **Preference to Westminster Residents**

Preference may be given to buyers who live and/or work within the City of Westminster at the time of this application

### **History of Co-Habitation**

All household members must be currently living together and have been living together in the same housing unit for a minimum of 12 consecutive months at the time the application is submitted to the Agency, with the exception of children who are less than 12 months old.

### **Ability to Qualify**

The first-time homebuyer shall have the sufficient income and credit worthiness to qualify for a loan provided by a conventional mortgage financing agency licensed by the State of California. The buyer shall apply for and obtain the maximum fixed rate 30 year loan available to him/her from conventional sources.

### **Asset Limitation Requirements**

The purpose of an asset limitation for the Agency's Home Ownership Program is to implement the Agency's policy that affordable housing is made available only to those individuals and households that are truly in need of assistance to purchase a dwelling unit.

**The liquid asset maximum for the buyer of a "for sale" unit is the sum of:**

- 1) The buyers minimum portion of the down payment plus the buyers 50% portion of the non-recurring closing cost; and



- 2) An amount equal to six (6) months of reserves for mortgage payments, taxes, homeowners association dues, if any, and insurance.
- 3) In determining the foregoing, liquid assets include assets such as, but not limited to:
  - a. Cash deposited in bank accounts, savings accounts, money market fund accounts, and similar type accounts,
  - b. Value of mutual funds, stocks, bonds, saving certificates, and other investment accounts,
  - c. Interest and dividends,
  - d. Value of trusts available to the household,
  - e. Government reimbursements such as social security payments,
  - f. Any payments or disbursements such as annuities, retirement accounts, inheritances, lottery winnings, capital gains, insurance settlements, etc.,
  - g. Lump sum receipts such as from inheritances, lottery winnings, capital gains, insurance settlements , etc, and
  - h. Cash gifts to the applicant or the proceeds from gifts in lieu of cash to the applicant.
- 4) Excluded from liquid assets are: The monies in retirement accounts, such as the principal and/or interest from annuities, IRA's, 401(k) or Keogh plans, that are not periodically disbursed; provided, however, that any hardship or other non-periodic payments, disbursements, or withdrawals, including in the form of a loan from any of the foregoing type accounts, or any other accounts, permitted to be used for the purchase of housing shall be considered a liquid asset.
- 5) Although not considered liquid assets, for the purpose of determining total assets in compliance with this policy, the Agency will also include the net value of other real estate owned (current market value less outstanding loan balances) which will not be sold concurrently with the purchase of the property for which the home purchase loan is being secured. However, if other real property is owned and being sold concurrently, the net proceeds from such a sale will be included as an asset.

Notwithstanding the foregoing, any applicant has liquid assets of \$10,000 or more over and above the amount needed for reserves at the time of purchase will not be eligible for a loan through the Agency's home Ownership Program.

### **Submittal Requirements**

In order to determine a purchaser's or borrower's eligibility, the information listed below should be submitted to Agency's representative:

- Completed Agency Loan Application
- A copy of the lender's completed loan application (1003), mortgage credit analysis worksheet (MCAW) or 1008, and the lenders prequalification loan approval letter providing the following information.

- Name and age of each person who will live in the home.
- Present home address and telephone number.
- Employer name, address and telephone number for each employed person in the household, including:
  - 1) Wages, salaries, overtime pay, commissions, etc., including unemployment and disability compensation or public assistance
  - 2) Interest income or income from business or rental property
  - 3) Periodic receipts such as social security, annuities, pensions or retirement funds, alimony, child support, etc.
  - 4) Last two months worth of pay stubs for each employed member of the household or a year to date profit and loss statement for self employed individuals. Documentation to support all other income,
  - 5) Last three years federal income tax returns, including W-2's
  - 6) Last three bank statements for all checking and/or savings accounts.
  - 7) Evidence that construction is at least to the framing stage in form of a copy of the job site City Building Department inspection card.

**Calculation of Adjusted Gross Income-** In calculating adjusted gross income, all of the income the applicant and other household member 18 years of age or older and not full-time students shall be considered as follows:

- The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
- Self-Employed income is defined as the average of three years net income. Net income is defined as the amount of net profit shown on Schedule C of applicants Federal Tax Returns for the past three years, plus depreciations, plus amortization, plus expenses for business use of home.
- Annual interest, dividends, and other net income of any kind from real or personal property. If the family assets are in excess of \$5,000, excluding property, adjusted gross income shall include the greater of the actual income derived from all assets or percentage of such assets based on the current passbook savings interest rate;
- The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pension, disability or death benefits, and other similar types of periodic receipts, including a lump sum payment for the delayed start of a periodic payment;
- Annual payments in lieu of earnings such as unemployment, workers compensation, severance pay, welfare assistance;
- Annual amount of periodic and determinable allowances, such as alimony and child support payment, and regular contributions or gifts received from persons not residing in the dwelling to the extent that such payments are reasonably expected to continue;

- All annual regular pay, special pay, and allowances of a member of the Armed Forces (whether or not living in the dwelling) who is the head of the family, spouse, or other person whose dependents are residing in the unit;
- Any annual earned income tax credit to the extent it exceeds income tax liability; and;
- Any other income that must be reported for Federal and or State income tax purposes.
- The following exceptions shall apply in the determination of adjusted gross income:
  - Casual, sporadic; or irregular gifts;
  - Amounts that are specifically for, or in reimbursement of, the cost of medical expenses;
  - Lump-sum additions to family assets, such as inheritance, insurance payments (including payments under health and accident insurance and workers compensation), capital gains, and settlement for personal or property losses ( these items shall be considered assets for the purpose of this program); and
- Annual amounts of education scholarships paid directly to the student or to the educational institution, and the amounts paid by the government to veterans for use in meeting the costs of tuition, fees, books and equipment.